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SENATE BILL 438

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

James G. Taylor

AN ACT

**RELATING TO PRIVATE ACTIVITY BONDS; PROVIDING FOR THE
ASSESSMENT AND COLLECTION OF APPLICATION, ALLOCATION AND
EXTENSION FEES.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. Section 6-20-5 NMSA 1978 (being Laws 1988,
Chapter 46, Section 5) is amended to read:**

**"6-20-5. REQUEST FOR ALLOCATION.--A request for
allocation may be submitted to the board at any time and shall
consist of the following:**

**A. a letter from the issuing authority or, in the
case of a project, a letter from bond counsel for the issuing
authority or the user stating the amount of the state ceiling
requested in dollars;**

B. in the case of a project, a copy of the

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1 inducement resolution, certified by an official of the issuing
2 authority, and a statement of bond counsel for the issuing
3 authority or the user that the bonds to be issued are private
4 activity bonds;

5 C. with respect to a request submitted on or after
6 July 1 in any calendar year, in the case of a project, a
7 project plan containing the following, if applicable:

8 (1) a description of the project and its
9 specific location;

10 (2) the estimated number of jobs, both
11 construction and permanent, [~~which~~] that can be filled by
12 persons who are residents of the state at the time of
13 submission of the request for allocation;

14 (3) the [~~present~~] current use or conditions of
15 the project site;

16 (4) the ~~maximum~~ amount of the bonds to be
17 issued;

18 (5) a proposed starting date and estimated
19 completion date of the construction project;

20 (6) information relating to the feasibility of
21 the proposed project, showing that the project will generate
22 revenues and cash flow sufficient to ~~make payments~~ under the
23 lease or installment sale agreement;

24 (7) the amount and source of private capital
25 [~~which~~] that will be used for the project in addition to bond

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1 financing;

2 (8) conceptual site plans for the project and
3 a map locating the project area;

4 (9) in the case of qualified residential
5 rental projects, so-called multifamily housing, an explanation
6 of why the housing needs of individuals whose income will make
7 them eligible under Section 142(d) of the code are not being
8 met by existing multifamily housing;

9 (10) any other information [~~which~~] that the
10 user believes will aid the board in considering the request for
11 allocation; and

12 (11) any other information specifically
13 requested by the board;

14 D. in the case of a project, a commitment letter
15 from the proposed purchaser or underwriter of the bonds; [~~and~~]

16 E. in the case of a mortgage credit certificate
17 election, a letter from the issuing authority stating that a
18 qualified mortgage credit certificate program has been adopted
19 by the issuing authority; and

20 F. such applicable application, allocation and
21 extension fees as are required by rule of the board."

22 Section 2. Section 6-20-11 NMSA 1978 (being Laws 1988,
23 Chapter 46, Section 11) is amended to read:

24 "6-20-11. ADMINISTRATIVE DUTIES OF THE BOARD. -- The board:

25 A. shall maintain the official state records

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1 pertaining to the state ceiling, requests for allocation
2 submitted, requests for carryforward election allocations
3 submitted, allocations issued, carryforward election
4 allocations issued, confirmations submitted and any other
5 records required for administration of the Private Activity
6 Bond Act [~~The board~~];

7 B. may issue, on behalf of the governor, any
8 certification required by the code or the regulations setting
9 forth information concerning the state ceiling and Section 146
10 of the code; and

11 C. may, by rule, require reasonable application,
12 allocation and extension fees to be paid by the issuing
13 authority. Application and extension fees collected by the
14 board shall be deposited in the general fund. Allocation fees
15 shall be held by the board in a liability suspense account and
16 after a determination has been made by the board that the
17 allocation has been used for the intended purpose, may, at the
18 discretion of the board, be refunded in whole or in part to the
19 applicant. Otherwise, the allocation fees shall be deposited
20 in the general fund."